

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SCOTT MICHAEL CRANDAL,

Defendant-Appellant.

UNPUBLISHED

September 18, 2003

No. 239925

Calhoun Circuit Court

LC No. 01-002680-FC

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

Defendant appeals as of right his sentence of twenty to fifty years in prison imposed on his plea-based conviction of criminal sexual conduct in the first degree (CSC I), the victim being under thirteen years of age, MCL 750.520b(1)(a). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with two counts of CSC I resulting from allegations made by complainant, his daughter, that he penetrated her vagina with his penis and placed his penis in her mouth. The acts were alleged to have occurred during the period 1991-1996, and began when complainant was six years old. Defendant pleaded guilty of one count of CSC I in exchange for dismissal of the second count.

The judicial sentencing guidelines¹ recommended a minimum term range of eight to twenty years. Defendant objected to the scoring of several Offense Variables; however, the trial court upheld the scoring as supported by the evidence. Complainant addressed the trial court and stated that she had been forever changed by defendant's actions and that she would never fully recover from them. She stated that she knew only pain in her childhood and that she did not understand what she had done to deserve the treatment she received from defendant.

¹ The offense of which defendant was convicted took place prior to January 1, 1999. Therefore, the statutory sentencing guidelines did not apply in this case. MCL 769.34(1). The Legislature did not intend that the statutory sentencing guidelines be applied retroactively to offenses committed before January 1, 1999. *People v Reynolds*, 240 Mich App 250, 253-254; 611 NW2d 316 (2000). Defendant's assertion on appeal that the statutory sentencing guidelines should be considered as a contemporary measure of an appropriate sentence is without merit.

Complainant requested that defendant be imprisoned for a lengthy term so that he could not harm other children. Defendant addressed the trial court and admitted both that he had no excuse for his actions and that his actions had harmed not only complainant but also his wife and other children.

The trial court sentenced defendant to twenty to fifty years in prison, with credit for two days. The trial court characterized defendant's offense as horrific and one that would have lifelong consequences for complainant. Nevertheless, the trial court concluded that a minimum term within the guidelines was appropriate.

Defendant argues that his minimum term is disproportionate to his circumstances and those of the offense, *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990), and thus constituted an abuse of discretion. Defendant emphasizes that he stopped his actions after he realized their effect on complainant, sought counseling, and surrendered to the police after the charges were made. He also observes that he had no prior criminal record, enjoyed strong family support, and had a stable employment history.

We affirm defendant's sentence. Defendant's minimum term of twenty years fell within the guidelines, albeit at the high end. As defendant correctly notes, a sentence that falls within the guidelines is presumed to be proportionate absent unusual circumstances. *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995). Contrary to defendant's assertion, no such circumstances exist in this case. Defendant sexually molested his young daughter over a period of several years. The fact that defendant ceased his behavior after observing his daughter's reaction and eventually surrendered to authorities does not support a conclusion that he merits a less severe minimum term, especially in light of his acknowledgment that no excuse existed for his actions and of complainant's description of the effect defendant's actions had on her. Furthermore, defendant's history of steady employment and his lack of a criminal record are not unusual circumstances that overcome the presumption that his sentence is proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Defendant's minimum term is proportionate and does not constitute an abuse of discretion.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder